



## **DNI Announces the Declassification of the Existence of Collection Activities Authorized by President George W. Bush Shortly After the Attacks of September 11, 2001**

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**December 21, 2013**

Yesterday, the Director of National Intelligence ("DNI") announced the declassification of the existence of collection activities authorized by President George W. Bush shortly after the attacks of September 11, 2001.

Starting on October 4, 2001, President Bush authorized the Secretary of Defense to employ the capabilities of the Department of Defense, including the National Security Agency ("NSA"), to collect foreign intelligence by electronic surveillance in order to detect and prevent acts of terrorism within the United States. President Bush authorized NSA to collect: (1) the contents of certain international communications, a program that was later referred to as the Terrorist Surveillance Program ("TSP"), and (2) telephony and Internet non-content information (referred to as "metadata") in bulk, subject to various conditions.

President Bush issued authorizations approximately every 30-60 days. Although the precise terms changed over time, each presidential authorization required the minimization of information collected concerning American citizens to the extent consistent with the effective accomplishment of the mission of detection and prevention of acts of terrorism within the United States. NSA also applied additional internal constraints on the presidentially-authorized activities.

Over time, the presidentially-authorized activities transitioned to the authority of the Foreign Intelligence Surveillance Act ("FISA"). The collection of communications content pursuant to presidential authorization ended in January 2007 when the U.S. Government transitioned the TSP to the authority of the FISA and under the orders of the Foreign Intelligence Surveillance Court ("FISC"). In August 2007, Congress enacted the Protect America Act ("PAA") as a temporary measure. The PAA, which expired in February 2008, was replaced by the FISA Amendments Act of 2008, which was enacted in July 2008 and remains in effect. Today, content collection is conducted pursuant to section 702 of FISA. The metadata activities also were transitioned to orders of the FISC. The bulk collection of telephony metadata transitioned to the authority of the FISA in May 2006 and is collected pursuant to section 501 of FISA. The bulk collection of Internet metadata was transitioned to the authority of the FISA in July 2004 and was collected pursuant to section 402 of FISA. In December 2011, the U.S. Government decided to not seek reauthorization of the bulk collection of Internet metadata.

After President Bush acknowledged the TSP in December 2005, two still-pending suits were filed in the Northern District of California against the United States and U.S. Government officials challenging alleged NSA activities authorized by President Bush after 9/11. In response the U.S. Government, through classified and unclassified declarations by the DNI and



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NSA, asserted the state secrets privilege and the DNI's authority under the National Security Act to protect intelligence sources and methods. Following the unauthorized and unlawful release of classified information about the Section 215 and Section 702 programs in June 2013, the Court directed the U.S. Government to explain the impact of declassification decisions since June 2013 on the national security issues in the case, as reflected in the U.S. Government's state secrets privilege assertion. The Court also ordered the U.S. Government to review for declassification all prior classified state secrets privilege and sources and methods declarations in the litigation, and to file redacted, unclassified versions of those documents with the Court.

The eight previously classified DNI declarations and classified NSA declarations that were filed in support of the U.S. Government's prior assertions of the state secrets privilege and sources and methods privilege in this litigation are posted on the [Office of the Director of National Intelligence website](#) and [ICOntheRecord.tumblr.com](#), the public website dedicated to fostering greater public visibility into the intelligence activities of the U.S. Government. Some information has been redacted from the declarations to protect information that remains properly classified for national security reasons and because of the great harm to national security if disclosed. The unclassified DNI and NSA declarations filed with the Court yesterday are also posted.

Office of the Director of National Intelligence Public Affairs

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### **Documents:**

- [DNI McConnell 2007 Shubert State Secrets Declaration](#)
  - [DNI Blair 2009 Jewel State Secrets Declaration](#)
  - [DNI Blair 2009 Shubert State Secrets Declaration](#)
  - [DNI Clapper 2012 Jewel State Secrets Declaration](#)
  - [DNI Clapper 2013 Jewel Shubert State Secrets Declaration](#)
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- [NSA Alexander 2007 Shubert Declaration](#)
  - [NSA Bonanni 2009 Jewel Declaration](#)
  - [NSA Alexander 2009 Shubert Declaration](#)



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- [NSA Fleisch 2012 Jewel Declaration](#)
- [NSA Fleisch 2013 Jewel Shubert Declaration](#)